

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

_____)	
ALEJANDRO ABRAHAM LOPEZ, JR)	
)	
Plaintiff,)	
v.)	Civil Action No. 1:12-cv-902 (LO/JFA)
)	
TRANS UNION, LLC, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

PROPOSED DISCOVERY PLAN

Pursuant to Fed. R. Civ. P. 26(f), Local Civil Rule 26(a) and the Court's Order of January 31, 2013, the parties¹ hereby propose the following joint Discovery Plan:

1. Conclusion of Discovery. Discovery will be concluded by Friday, **June 14, 2013** as provided in the Court's Initial Scheduling Order.

2. Initial Disclosures. The parties agree that all Fed. R. Civ. P. 26(a)(1) disclosures shall be completed by **March 22, 2013**.

3. Claims, Defenses and Settlement. The parties have conferred as to the nature and basis of their claims. The parties are engaged in settlement discussions. The parties are willing to consider Court-supervised mediation at an appropriate time, individually or collectively.

4. Discovery Schedule.

a. At this time, the parties do not believe that the Local Civil Rules should be altered with respect to the timing of discovery. Accordingly, all requests for written discovery should be served so that answers thereto shall be due to be served not later than the discovery

¹ Dismissal Orders have been submitted to the Court for the Defendants CoreLogic, Equifax Information Services and Experian Information Solutions.

cut-off date. Based on the nature of the claims asserted by Plaintiff, that his credit report has been impermissibly accessed by numerous third-parties, the Parties request that they be permitted to take up to 10 depositions per side, as permitted by Fed. R. Civ. P. 30.

b. Plaintiff has moved to consolidate this case with *Alejandro Lopez, Sr. v. TransUnion, LLC*, Civ. No. 1:12-cv-1325, and to file an amended complaint in which Plaintiff alleges both class action and individual claims and in which only TransUnion, LLC remains as a defendant. Defendant has consented to consolidation, but does not consent to the filing of the Amended Complaint absent entry of the class action discovery plan requested in paragraph 19 below.

c. The Parties recognize that the Court has in previous class action cases reserved for the District Court discretion to set a bifurcated discovery schedule to permit the phased discovery of class certification issues first and class merits issues after a decision as to class certification. Nevertheless, if Plaintiff is given leave to amend, both Parties believe and represent to the Court that discovery in the case would be accomplished more efficiently and within a reasonable schedule if such bifurcation were permitted. Their discovery in Phase I would be simplified and focused on satisfaction of Rule 23 elements. Accordingly, the parties request that the Court adopt the phased discovery schedule set forth in paragraph 19 below.

5. Service of Papers and Pleadings. The parties agree to accept service of any non-ECF pleadings and papers by email in .pdf format upon counsel of record.

6. Discovery of Electronically Stored Information. The parties agree to work in good faith to coordinate the manner in which ESI is to be produced.

7. Privileged or Protected Materials. The parties agree that to the extent any party intends to assert a claim of privilege or protection as trial preparation material, any such claim

must be made in a timely manner and in accordance with Fed. R. Civ. P. 26(b)(5). The parties agree that inadvertent production of privileged materials shall not constitute a waiver of privileges or protections so long as the producing party notifies the receiving party promptly upon discovery of the inadvertent production. Disputes concerning privileges and protections shall be addressed in accordance with Fed. R. Civ. P. 26(b)(5)(B).

8. Protective Orders. Counsel have discussed entry of a stipulated protective order and intend to file one with the Court.

9. Filings Under Seal. The parties recognize that filings under seal are disfavored and discouraged, See *Va. Dep 't of State Police v. Washington Post*, 386 F.3d 567, 575-576 (4th Cir. 2004). Any motion to file a document under seal, including a motion for entry of a protective order containing provisions for filing documents under seal, must comply with Local Civil Rule 5. The motion must state sufficient facts supporting the action sought, and each proposed order must include specific findings.

10. Expert Discovery,

a. The parties agree that expert discovery may be necessary. Plaintiff shall make his expert disclosures by **May 3, 2013**. Defendants' disclosures are due **May 24, 2013**. To the extent they are necessary, rebuttal disclosures are due **June 7, 2013**.

11. Subjects of Discovery. The parties agree that discovery relevant to the claims and defenses contained in the pleadings will be appropriate, subject to all objections permitted by the applicable rules.

12. No Trial by Magistrate. The parties do not agree to submit to the jurisdiction of a magistrate judge in this case.

13. Chambers Copies of Motions. A paper copy of any non-dispositive motion and all papers relating to the motion shall be delivered directly to the chambers of the undersigned magistrate judge upon filing. See ECF Policies and Procedures, Alexandria Courtesy Copy Information.

14. Motions Procedures.

a. All motions, except for summary judgment, shall be noticed for a hearing on the earliest possible Friday before the Final Pretrial Conference on **June 20, 2013**. Twenty-one days' notice of the hearing is required for motions to dismiss, for summary judgment and for judgment on the pleadings. A non-dispositive motion must be filed 5:00 p.m. the Friday before the Friday for which it is noticed, with a response due by 5:00 p.m. the Wednesday before the hearing. All motions must contain a statement that a good faith effort to narrow areas of disagreement has been made in accordance with Local Civil Rule 7(E) and Local Civil Rule 37(E) for discovery motions.

b. Plaintiff has sought leave to file an Amended Complaint, which asserts class action claims in this matter. If Plaintiff is given leave to assert such claims, the parties request that the Court adopt the class certification briefing schedule set forth in paragraph 19 below.

c. If the filing of an amended pleading results in additional motions pursuant to Fed. R. Civ. P. 12, all such Fed. R. Civ. P. 12 issues shall be raised in one pleading unless leave of court is first obtained. All summary judgment issues shall be presented in the same pleading unless leave of court is first obtained.

d. All motions must adhere to the page limits set in Local Civil Rule 7(F)(3). No pleading shall be in type less than ten (10) pitch or twelve (12) point font.

15. Filing of Certain Materials. Disclosures under Fed. R. Civ. P. 26(a)(1) and (2), notices of depositions, interrogatories, request for documents and admissions, and answers thereto shall not be filed except on order of the Court, or for use in a motion or at trial.

16. Disclosures, Exhibit Lists, Witness Lists and Stipulations. The parties agree that the Rule 26(a)(3) disclosures, a list of exhibits to be used at trial, a list of the witnesses to be called at trial and a written stipulation of uncontested facts will be filed electronically with the Court on or before the Final Pretrial Conference. Objections to exhibits will be filed within 10 days after the Final Pretrial Conference; otherwise the exhibits shall stand admitted in evidence. The original exhibits shall be delivered to the clerk as provided by Local Civil Rule 79(A).

17. Jury Instructions and Voir Dire. In the event this case is tried before a jury, each party shall proceed in accordance with Local Civil Rules concerning jury instructions and objections.

18. Consolidation. The parties request that this action be consolidated with *Alejandro Lopez, Sr. v. Trans Union, LLC, et al.*, Civil Action No. 1:12-cv-1325 (LO/JFA).

19. Class Action Claims. Plaintiff has sought leave to file an amended complaint asserting class action claims in this matter. If Plaintiff is given leave to assert such claims, the parties request that the court adopt the phased discovery schedule set forth below. The parties will conduct discovery in two phases.

a. Phase I discovery shall be completed by June 14, 2013 and shall be limited to the evidence reasonably necessary for the parties to litigate class certification, including written discovery and depositions of the parties, third parties and disclosed experts, to the extent reasonably necessary to litigate class certification.

b. The deadline for the Plaintiff to move for class certification shall be June 14, 2013. Opposition briefs shall be filed by July 8, 2013. Reply briefs to such motions shall be filed by July 19, 2013.

c. Disclosures pursuant to Fed. R. Civ. P. 26(a)(2) as to Phase I issues shall be made pursuant to the deadlines in paragraph 10 above.

d. The Parties shall meet and confer 14 days after the Court rules on class certification to discuss an appropriate schedule for Phase II. Phase II shall include discovery related to the individual claims of the Plaintiff and other merits and liability issues.

The parties respectfully request that the Court adopt this Discovery Plan. The parties also request that the Court allow the parties to appear telephonically for the Fed. R. Civ. P. 16(b) Pretrial Conference on March 6, 2013 and do not wish to waive their appearance at the Pretrial Conference at this time.

DATED February 28, 2013

WE ASK FOR THIS:

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